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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,123	12/29/2003	Robert Burnett	139195	9801
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ALCATEL LUCENT				
INTELLECTUAL PROPERTY & STANDARDS				
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EXAMINER				
PASCAL, LESLIE C				
ART UNIT		PAPER NUMBER		
2613				
MAIL DATE		DELIVERY MODE		
09/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/750,123

Applicant(s)

BURNETT ET AL.

Examiner

Leslie Pascal

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-33 is/are pending in the application.
- 4a) Of the above claim(s) 27-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CD/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Art Unit: 2613

1. Applicant's election without traverse of claims 27-31 in the reply filed on 7-29-08 is acknowledged.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 32-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not teach how a wavelength topology map from the adjacent network element sent in a first direction includes a map portion that specifies the wavelengths being transmitted by the adjacent network element in a second direction. Specifically, the specification teaches that the first and second topology maps sent in opposite directions. The first and second topology maps have information that is specific to the direction that they are sent in (paragraphs 7-9 of applicants' specification). These paragraphs make it clear that each map is sent in the same direction that the wavelengths in the map are sent. Further, see paragraph 30 of the applicants' specification. This specifically teaches that the first topology maps update first topology maps and second topology maps update second topology maps. The specification does not teach how sending a topology map in a first direction that only has information about wavelengths sent in the first direction provides information about the wavelengths sent in a second direction. If this is

Art Unit: 2613

not what the claim intends to say, it would appear that there is a 112, second paragraph problem. The claim appears to claim that the map sent in one direction includes information about wavelengths sent in another direction. See also original claim 18 which teaches that the topology map may have first and second map portions. But this claim like the rest of the specification specifically teaches that the map portions are sent in the same direction as the wavelengths in the map portions.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramaswami et al (5781537) in view of Wu et al (2002/10781886)

Ramaswami et al teach generating a wavelength topology table (figure 3) and forwarding and updating the tables at each node (column 7, lines 29-60). Although he does not specifically teach determining a topology map in a first direction and a second direction, it would have been obvious to do that since the information about all required wavelengths is sent in the topology map to all adjacent nodes. Further, it teaches that the update message that is sent lists the adjacent up links to the node and their wavelength usage. Since all information with regard to a certain direction are sent to each adjacent node, it would have been obvious to send only information that would affect each node only in order to save memory at each node by sending non relevant information to each node. Although he does not teach specifics about how the map is sent, Wu et al teaches that it is well known to use either in-band or out-of-band wavelengths as the control channel (paragraph 8) in a system that sends forwarding tables (paragraph 20). It would have been obvious to use a dedicated channel, which is an out-of-band wavelength in order to send updating tables as taught by Wu et al. In regard to determining the pass through, see the last full paragraph of column 7 of Ramaswami et al. It says that each node determines all of the wavelengths that go through it (pass through it). Further, it would have been

Art Unit: 2613

obvious to determine the pass-through wavelengths in order to avoid the expense of processing signals that are not to be used at a station or node. It is inherent that Ramaswami et al has transponders that send the information. This rejection is made in view of the 112 rejection. The examiner has tried to read the claims in view of the applicants' specification since the claims appear to be contrary to the applicants' specification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Pascal whose telephone number is 571-272-3032. The examiner can normally be reached on Monday- Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571-272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leslie Pascal/
Primary Examiner
Art Unit 2613

Art Unit: 2613